

Notice of Allowability

Application No.

10/698,333

Examiner

Patrick J. Assouad

Applicant(s)

BYE ET AL.

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Response filed 11/5/04
2. ☒ The allowed claim(s) is/are 38-57
3. ☒ The drawings filed on 6/7/04 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 11/4/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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Information Disclosure Statement

1. The information disclosure statement filed 11/4/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The Examiner recognized the Office's waiver referred to by Applicant in his IDS cover sheet. All of the cited US patents and patent applications have indeed been considered and initialed. Not all of the foreign patents/publications have been considered because copies have been not been provided and are not covered by the waiver.

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance:

All independent claims (method claim 38, system claims 48 and 55) specifically refer to a "first card having a first microprocessor to control the communication with the hearing aid; and... the second card having a second microprocessor to manage the generation of test signals."

Shennib and Lichter et al. specifically refer to PCMCIA- or comparable JEIDA - based hearing- or audiometric-analysis systems. However, both Shennib and Lichter et al. are silent with respect to a microprocessor actually being on their PCMCIA cards themselves.

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It is recognized that microprocessors on PCMCIA cards are not new. See, for example, LeRoux ('400) or Kowalski ('471 B2). However, it appears that Lichter et al. may actually teach away from including a microprocessor on their cards. In col. 8, lines 27-33 of Lichter et al., we see:

Since the real-time biological data processing PC card 10 uses the keyboard 67, display 65, storage 63, microprocessor 61, power supply (not shown), and data transmission and printing capabilities (not shown) of the host computer system 27, the real-time biological data processing PC card 10 itself is very inexpensive and rudimentary in design.

Lichter et al. clearly teach that the use of a (single) "host microprocessor" is simpler and sufficient, and also provides cost savings. Thus, the prior art of record, including the newly cited art (at least, what has been considered) does not suggest or disclose the claimed combination of method steps or system claims, most notably, the claimed "first card having a first microprocessor to control the communication with the hearing aid; and... the second card having a second microprocessor to manage the generation of test signals."

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J. Assouad whose telephone number is 571-272-2210. The examiner can normally be reached on Tuesday-Friday, 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick J Assouad
Primary Examiner
Art Unit 2857

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